

REMARKS

Entry of the foregoing amendments is respectfully requested.

Summary of Amendments

Upon entry of the foregoing amendments, claims 11, 20 and 33 are amended, whereby claims 11-23 and 32-39 will continue to be pending, with claims 11 and 20 being independent claims.

Support for the amended claims can be found throughout the present specification (see, e.g., pages 4, 6, 7 and 29 thereof). For example, all of the preparations which are exemplified on page 29 of the present specification contain a combination of components (a) and (b) as recited in present claims 11 and 20.

Applicants note that entry of the present amendments is proper because these amendments due not raise any new issues and do not require a further search in that they are substantially identical with the claims already considered by the Examiner.

Summary of Office Action

As an initial matter, Applicants note with appreciation that the Examiner appears to have withdrawn the objection to claim 19.

Claims 11-23 and 32-39 are rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement.

Claim 33 is rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for allegedly failing to particularly point out and distinctly claim the subject matter which Applicants

regard as the invention.

Claims 11-17, 20-22 and 36-39 are/remain rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Martens et al., US 2005/0031847 A1 (hereafter "MARTENS").

Claims 11, 18 20-23 and 33 are/remain rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over MARTENS in view of Lloyd et al., U.S. Patent No. 4,600,620 (hereafter "LLOYD").

Claims 11, 20 and 32 are newly rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over MARTENS and further evidenced by McAtee et al., U.S. Patent No. 6,280,757 (hereafter "MCATEE").

Claims 11, 20, 34 and 35 are newly rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over MARTENS in view of Drucks et al., US 2002/0102289 (hereafter "DRUCKS").

Response to Office Action

Reconsideration and withdrawal of the rejections of record are respectfully requested, in view of the foregoing amendments and the following remarks.

Response to Rejection under 35 U.S.C. § 112, First Paragraph

Claims 11-23 and 32-39 are rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement. The rejection essentially alleges that the present specification does not provide support for the phrase "in admixture" in claims 11 and 20.

Applicants respectfully disagree with the Examiner in this regard. In particular, "in admixture" was inserted in claims 11 and 20 only in order to make it even clearer (if possible at all)

that components (a) and (b) recited therein are present in the same preparation, a fact which is already clear from the fact that the recited percentages are “based on the total weight of the preparation”, which would not make sense if (a) and (b) were present in two different, distinct preparations (as is the case with the compositions of MARTENS). At any rate, claims 11 and 20 have been amended by replacing “in admixture” by “a combination of”, thereby rendering this rejection moot.

Response to Rejection under 35 U.S.C. § 112, Second Paragraph

Claim 33 is rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for allegedly failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. The rejection essentially alleges that one of ordinary skill in the art would not know which polyester is identified by the abbreviation “PET”.

Applicants respectfully disagree with the Examiner in this regard as well. At any rate, claim 33 has been amended as requested by the Examiner (see, e.g., paragraph [0024] of the present specification), wherefore this rejection is moot as well.

Response to Rejection of Claims under 35 U.S.C. § 103(a) over MARTENS

Claims 11-17, 20-22 and 36-39 are/remain rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over MARTENS. The rejection refers to the rejection set forth in the previous Office Action where it was alleged that MARTENS teaches a non-woven fabric cleansing wipe comprising an aqueous phase and a lipid phase, that the lipid phase can contain soybean oil, cetyl palmitate or mineral oil, that the oil content is at least 50%, and that the aqueous phase can comprise

anionic surfactants as emulsifiers in amounts of 0.5-50%. The rejection conceded that MARTENS fails to teach “a specific embodiment with both the lipid and aqueous phase contained therein” and alleged that one of ordinary skill in the art “would have been motivated to optimize the amounts of surfactant and lipid in the wipe of [MARTENS] for effective removal of oil and water compatible soils”.

Applicants respectfully traverse this rejection for all of the reasons which are set forth in the response to the previous Office Action. The corresponding remarks are incorporated herein.

It is pointed out again that MARTENS fails to teach or suggest that the fabric disclosed therein is to be impregnated with a preparation which comprises a combination of one or more anionic surfactants and one or more lipids. Rather, MARTENS makes it abundantly clear that the lipid phase and the aqueous phase (which may optionally contain anionic surfactants) are to be applied to the fabric separately, preferably first the lipid phase and then the aqueous phase, and even may be applied to different parts of the textile (wipe). For example, in paragraph [0017] thereof MARTENS states that “[w]hereas traditional wet wipes have been based on impregnation of a fabric with one phase, the products of this invention concern the application of two distinctly different phases onto a sheet. Both phases differ in terms of physical properties and may be applied on various parts or portions of the sheet”. This statement is illustrated, for example, by the procedure set forth in Example 3 of MARTENS. According to Example 3 a dry hydro-entangled sheet material was cut into strips, the lipid phase was applied onto both sides of the fabric in the form of stripes, the lipid phase on the strips was allowed to cool so that it solidified and the strips were subsequently sprayed with the liquid as prepared in Example 2 (which describes several aqueous phases). Subsequently the strips were folded and cut.

Applicants further point out again that paragraph [0088] of MARTENS refers to the concentration of lipids in the lipid phase and paragraph [0363] of MARTENS refers to the concentration of emulsifier(s) in the aqueous phase. Since lipid phase and aqueous phase of MARTENS are “distinctly different phases” it is impossible (and would not make sense) to calculate the concentration of lipids and emulsifier(s) in the combined lipid and aqueous phases.

It is submitted that the noted deficiency of MARTENS cannot be cured by paragraph [0045] of MARTENS (newly relied on by the Examiner in the present Office Action). Specifically, paragraph [0045] of MARTENS states (emphasis added):

The lipid phase that is applied to the sheet is such or formulated such that it is insoluble or essentially insoluble in the aqueous phase. However, in some embodiments the two phases may be mixable or soluble into each other to a limited extend [sic]. The lipid and aqueous phase should be such or formulated such that once on the sheet and for the time prior to usage of the sheet product by the consumer they do not form one phase or a continuous phase.

The above passage also makes it clear that lipid phase and aqueous phase are two distinct, separate liquids which do not form one (i.e., a single) phase even if they are “mixable or soluble into each other to a limited exten[t]”. At any rate, even if one were to assume, *arguendo*, that according to MARTENS the lipid phase and the aqueous phase are used in the form of a mixture, without knowing the weight ratio of lipid and aqueous phases it is impossible to calculate what the respective percentages of the anionic surfactants (if present at all) and the lipids in a combined liquid would be. Nor is there any reason for one of ordinary skill in the art to pay any attention to, let alone optimize, these (theoretical) percentages.

Applicants submit that for at least all of the foregoing reasons and the additional reasons set forth in the response to the previous Office Action, MARTENS is unable to render obvious the subject matter of any of the present claims, wherefore the rejection of claims 11-17, 20-22 and 36-39

under 35 U.S.C. § 103(a) over MARTENS is unwarranted and should be withdrawn, which action is respectfully requested.

Response to Remaining Rejection of Claims under 35 U.S.C. § 103(a)

Claims 11, 18, 20-23 and 33 are/remain rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over MARTENS in view of LLOYD, claims 11, 20 and 32 are newly rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over MARTENS and further evidenced by MCATEE, and claims 11, 20, 34 and 35 are newly rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over MARTENS in view of DRUCKS.

Applicants respectfully traverse these rejections as well. In particular, claims 11, 18, 20-23 and 33-35 are not rendered obvious by MARTENS as allegedly evidenced by MCATEE or in view of LLOYD or DRUCKS for at least all of the reasons for which claims 11 and 20 are not rendered obvious by MARTENS (see remarks above). In particular, none of MCATEE, LLOYD and DRUCKS is able to cure the noted deficiencies of MARTENS.

With respect to LLOYD it is pointed out again that this document teaches articles which are suitable for wiping hard surfaces, whereas MARTENS is directed exclusively to wipes which are to be used on skin. Accordingly, there is no reason for one of ordinary skill in the art to combine the teachings of MARTENS and LLOYD and in particular, to consult LLOYD for suggestions regarding suitable substrate materials for the skin wipes of MARTENS, and neither has the Examiner provided any explanation in this regard.

Applicants note that in response to this argument at the top of page 3 of the instant Office Action the Examiner states, *inter alia*, “the claims are directed to a cleansing article and do not

specify a type of cleansing article". Applicants respectfully submit that the question here is not what the present claims are directed to, but whether without having knowledge of the present invention one of ordinary skill in the art looking for wipe materials for skin cleansing (see MARTENS) would expect to find useful information in this regard in a document which is directed to the cleaning of hard surfaces (LLOYD). It further is noted that the Examiner has not provided any evidence suggesting that wipe materials for cleaning hard surfaces are also suitable for use on human skin.

Regarding the newly cited document DRUCKS, it appears that the Examiner is alleging that merely in view of the fact that DRUCKS "teaches cosmetic or dermatological wipes with an impregnated oil phase" and that "the oils used include C₁₋₁₅ alkyl benzoate or octyldodecanol" this document would have rendered it obvious to one of ordinary skill in the art to include C₁₋₁₅ alkyl benzoate or octyldodecanol in the lipid phase of MARTENS. It is submitted that even if one were to assume, *arguendo*, that this is the case, DRUCKS does not cure any of the other deficiencies of MARTENS and in particular, clearly does not render it obvious to impregnate the wipes of MARTENS with a preparation which comprises not only any of the oils disclosed by DRUCKS but also one or more anionic surfactants, let alone in a concentration of from 1 % to 30 % by weight, based on a combined weight of the lipid and aqueous phases of MARTENS.

It is submitted that for at least all of the foregoing reasons and the additional reasons which are set forth in the response to the previous Office Action, the instant rejections of claims 11, 18, 20-23 and 33-35 under 35 U.S.C. § 103(a) over MARTENS as allegedly evidenced by MCATEE or in view of LLOYD or DRUCKS are without merit as well, wherefore withdrawal thereof is warranted.

CONCLUSION

In view of the foregoing, it is believed that all of the claims in this application are in condition for allowance. Accordingly, an early issuance of the Notices of Allowance and Allowability is respectfully solicited. If any issues yet remain which can be resolved by a telephone conference, the Examiner is respectfully invited to contact the undersigned at the telephone number below.

Respectfully submitted,
Albrecht DOERSCHNER et al.

/Heribert F. Muensterer/

Heribert F. Muensterer
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GREENBLUM & BERNSTEIN, P.L.C.
1950 Roland Clarke Place
Reston, Virginia 20191
(703) 716-1191